

House File 398 - Introduced

HOUSE FILE 398

BY SHIPLEY

A BILL FOR

1 An Act establishing an education scholarship account program
2 for pupils attending a nonpublic school or receiving
3 private instruction, establishing an education scholarship
4 account fund, providing an income tax exemption, making
5 appropriations, providing penalties, and including
6 applicability provisions.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 8.6, Code 2021, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 17. *Education scholarship applications.* To
4 adopt rules relating to applications for an education
5 scholarship pursuant to section 257.11B, including application
6 processing timelines and information required to be submitted
7 by a parent or guardian.

8 Sec. 2. NEW SECTION. 257.11B **Education scholarship account**
9 **program.**

10 1. *a.* For the school budget year beginning July 1, 2022,
11 and each succeeding school budget year, resident pupils
12 eligible to enroll in kindergarten through grade twelve and who
13 are attending a nonpublic school, as defined in section 285.16,
14 or receiving private instruction, and who are not otherwise
15 ineligible under this section, shall be eligible to receive an
16 education scholarship in the manner provided in this section.

17 *b.* For purposes of this section:

18 (1) "*Private instruction*" means competent private
19 instruction or independent private instruction as defined in
20 section 299A.1, subsection 2.

21 (2) "*Resident*" means the same as defined in section 282.1,
22 subsection 2.

23 2. *a.* By January 31 preceding the school year for which
24 the education scholarship is requested, the parent or guardian
25 of the pupil requesting to receive an education scholarship
26 shall submit an application to the department of management, on
27 application forms developed by the department of management,
28 indicating that the parent or guardian intends to enroll the
29 pupil in a nonpublic school or place the pupil under private
30 instruction.

31 (1) In addition to such information deemed appropriate by
32 the department of management, the application shall require
33 certification from the nonpublic school of the pupil's
34 enrollment for the applicable school year or a statement from
35 the intended provider of private instruction for the pupil for

1 the applicable school year.

2 (2) Applications submitted for pupils, other than those
3 eligible to enroll in kindergarten, shall include evidence
4 of the pupil's completion and performance on each statewide
5 assessment administered to the pupil required by the pupil's
6 nonpublic school or, for pupils receiving private instruction,
7 that the parent or guardian has satisfied the provisions
8 of section 299A.3. To receive an education scholarship,
9 completion of all reports and evaluations described under
10 section 299A.3 is required for each pupil receiving private
11 instruction.

12 *b.* By March 1 preceding the school year for which the
13 education scholarship is requested, the department of
14 management shall notify the parent or guardian of each pupil
15 approved for the following school year to receive an education
16 scholarship and the amount of the education scholarship for the
17 pupil.

18 *c.* Education scholarships shall only be approved for one
19 school year and applications must be submitted annually for
20 education scholarships in subsequent school years.

21 3. The department of management shall assign each pupil an
22 education scholarship in an amount equal to the regular program
23 state cost per pupil for the same school year.

24 4. An education scholarship account fund is created
25 in the state treasury under the control of the department
26 of management consisting of moneys appropriated to the
27 department of management for the purpose of providing
28 education scholarships under this section. For the fiscal
29 year commencing July 1, 2022, and each succeeding fiscal year,
30 there is appropriated from the general fund of the state to the
31 department of management to be credited to the fund the amount
32 necessary to pay all education scholarships approved for that
33 fiscal year. The director of the department of management has
34 all powers necessary to carry out and effectuate the purposes,
35 objectives, and provisions of this section pertaining to the

1 fund, including the power to do all of the following:

2 *a.* Make and enter into contracts necessary for the
3 administration of the fund.

4 *b.* Procure insurance against any loss in connection with the
5 assets of the fund or require a surety bond.

6 *c.* Contract with a private financial management firm
7 to manage the fund, in collaboration with the treasurer of
8 state, including providing for the disbursement of education
9 scholarships in the form of an electronic debit card or checks
10 that are payable directly from the pupil's account within the
11 fund.

12 *d.* Conduct audits or other reviews necessary to properly
13 administer the program.

14 *e.* Adopt rules under chapter 17A for the administration of
15 the fund and accounts within the fund.

16 5. *a.* For each pupil approved for an education scholarship,
17 the department of management shall establish an account
18 for that pupil in the education scholarship account fund.
19 Unless already made available to the parent or guardian under
20 paragraph "b", the amount of the pupil's education scholarship
21 shall be deposited into the pupil's account on July 1, and such
22 amount shall be immediately available to the parent or guardian
23 for the payment of qualified educational expenses incurred
24 by the parent or guardian for the pupil during that fiscal
25 year using the payment method authorized under subsection 4,
26 paragraph "c".

27 *b.* Upon written request of the parent or guardian, the
28 amount of the pupil's education scholarship shall be deposited
29 into the pupil's account and be made available as soon as
30 practicable after the department of management provides notice
31 under subsection 2, paragraph "b", if qualified educational
32 expenses for the pupil for the applicable school year are due
33 prior to July 1 of the school year.

34 *c.* A nonpublic school or a provider of private instruction
35 that accepts payment from a parent or guardian using funds from

1 a pupil's account in the education scholarship account fund
2 shall not refund, rebate, or share any portion of such payment
3 with the parent, guardian, or pupil.

4 d. Moneys remaining in a pupil's account upon conclusion
5 of the fiscal year shall remain in the pupil's account in the
6 education scholarship account fund for the payment of qualified
7 educational expenses in future fiscal years during which the
8 pupil participates in the program or for payment to the pupil
9 as provided under subsection 8.

10 6. For purposes of this section, "*qualified educational*
11 *expenses*" includes tuition and fees at a nonpublic school,
12 textbooks, fees or payments for educational therapies,
13 including tutoring or cognitive skills training, curriculum
14 fees and materials for a course of study for a specific subject
15 matter or grade level, tuition or fees for nonpublic online
16 education programs, education materials and services for pupils
17 with disabilities, including the cost of paraprofessionals
18 and assistants who are trained in accordance with state law,
19 standardized test fees, and other expenses incurred by the
20 parent or guardian that are directly related to the educational
21 enrichment or personal fulfillment of the pupil under private
22 instruction or at an accredited nonpublic school.

23 7. A person who makes a false claim for the purpose of
24 obtaining an education scholarship provided for in this
25 section or who knowingly receives the scholarship or makes
26 a payment from an account within the education scholarship
27 account fund without being legally entitled to do so is guilty
28 of a fraudulent practice under chapter 714. The false claim
29 for an education scholarship or a payment from an account
30 shall be disallowed. If amounts from the scholarship have
31 been disbursed from the applicable account in the education
32 scholarship account fund, the department of management shall
33 initiate legal proceedings to recover such amounts. A parent
34 or guardian who commits a fraudulent practice under this
35 subsection is prohibited from participating in the education

1 scholarship program in the future.

2 8. *a.* For each pupil with a positive balance in the
3 pupil's account in the education scholarship account fund upon
4 graduation from high school or completion of an equivalent
5 level of private instruction, the department of management
6 shall pay such amount from the pupil's account to the
7 pupil within thirty days of the graduation or completion of
8 instruction or the pupil's eighteenth birthday, whichever
9 is later. If, however, the pupil becomes ineligible under
10 this section prior to graduation or completion of private
11 instruction or fails to graduate or complete private
12 instruction by the pupil's twentieth birthday, the department
13 of management shall close the pupil's account and transfer any
14 such remaining amount to the general fund of the state.

15 *b.* For each pupil who graduates from high school or
16 completes an equivalent level of private instruction prior to
17 the pupil's seventeenth birthday, the department of management
18 shall deposit in the pupil's account in the education
19 scholarship account fund an amount equal to the regular program
20 state cost per pupil for the applicable school budget year
21 for each full school budget year between the pupil's date of
22 graduation from high school or completion of an equivalent
23 level of private instruction and the pupil's eighteenth
24 birthday.

25 9. This section shall not be construed to authorize the
26 state or any political subdivision of the state to exercise
27 authority over any nonpublic school or private instruction
28 provider or construed to require a nonpublic school or private
29 instruction provider to modify its academic standards for
30 admission or educational program in order to receive payment
31 from a parent or guardian using funds from a pupil's account
32 in the education scholarship account fund. A nonpublic school
33 that accepts payment from a parent or guardian using funds from
34 a pupil's account in the education scholarship account fund
35 is not an agent of this state or of a political subdivision

1 of this state. Rules adopted by the department of management
2 to implement this section that impose an undue burden on a
3 nonpublic school are invalid.

4 Sec. 3. Section 422.7, Code 2021, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 48. Subtract, to the extent included,
7 the amount of an education scholarship under section 257.11B
8 received by the taxpayer for payment of qualified educational
9 expenses or paid to the taxpayer under section 257.11B,
10 subsection 8.

11 Sec. 4. APPLICABILITY. The following applies to school
12 budget years and fiscal years beginning on or after July 1,
13 2022:

14 The section of this Act enacting section 257.11B.

15 Sec. 5. APPLICABILITY. The following applies to tax years
16 beginning on or after January 1, 2022:

17 The section of this Act enacting section 422.7, subsection
18 48.

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with
21 the explanation's substance by the members of the general assembly.

22 This bill provides education scholarships for pupils
23 attending a nonpublic school or receiving private instruction
24 and establishes an education scholarship account fund.

25 Under the bill, pupils who are eligible to enroll in
26 kindergarten through grade 12 and who attend a nonpublic school
27 or are placed under private instruction under Code chapter 299A
28 are eligible to receive an education scholarship. The parent
29 or guardian of the pupil requesting to receive an education
30 scholarship must submit an application to the department of
31 management indicating that the parent or guardian intends to
32 enroll the pupil in a nonpublic school or provide private
33 instruction. To receive an education scholarship, completion
34 of all reports and evaluations under Code section 299A.3 is
35 required for each pupil receiving private instruction.

1 The bill requires that by March 1 preceding the school
2 year for which the education scholarship is requested, the
3 department of management must notify the parent or guardian of
4 each pupil approved for the following school year to receive an
5 education scholarship and the amount of the scholarship for the
6 pupil. Education scholarships must be approved for each school
7 year and applications must be submitted each year.

8 The amount of the education scholarship is equal to the
9 regular program state cost per pupil for the same school budget
10 year.

11 The bill creates an education scholarship fund in the state
12 treasury under the control of the department of management
13 consisting of moneys appropriated to the department of
14 management for the purpose of providing education scholarships.
15 For the fiscal year commencing July 1, 2022, and each
16 succeeding fiscal year, there is appropriated from the
17 general fund of the state to the department of management for
18 deposit in the fund the amount necessary to pay all education
19 scholarships approved for that fiscal year. For each pupil
20 approved for an education scholarship, the department of
21 management must establish an account for that pupil in the
22 education scholarship account fund. The amount of the pupil's
23 education scholarship is deposited into the pupil's account
24 on July 1 and such amount is available for use by parents and
25 guardians for the payment of qualified educational expenses, as
26 defined in the bill, incurred by the parent or guardian for the
27 pupil during that fiscal year.

28 Upon written request of the parent or guardian, the amount of
29 the pupil's education scholarship shall be deposited into the
30 pupil's account and be made available as soon as practicable
31 after the notice of receipt of the scholarship is given to the
32 parent or guardian if qualified educational expenses for the
33 pupil for the applicable school year are due prior to July 1 of
34 the school year.

35 The bill authorizes the department of management to

1 contract with a private financial management firm to manage the
2 education scholarship account fund, in collaboration with the
3 treasurer of state, including providing for the disbursement of
4 education scholarships in the form of an electronic debit card
5 or checks that are payable directly from the pupil's account
6 within the fund.

7 The bill provides that moneys remaining in a pupil's account
8 upon the conclusion of the fiscal year shall remain in the
9 pupil's account in the education scholarship fund for the
10 payment of qualified educational expenses in future fiscal
11 years during which the pupil participates in the program or for
12 payment to the pupil as authorized in the bill.

13 Under the bill, for each pupil with a positive balance in the
14 pupil's account upon graduation from high school or completion
15 of an equivalent level of private instruction, the department
16 of management is required to pay such amount to the pupil based
17 on timelines established in the bill. For each pupil who
18 graduates from high school or completes an equivalent level
19 of private instruction while participating in the education
20 scholarship account program prior to the pupil's seventeenth
21 birthday, the department of management shall deposit in the
22 pupil's account in the education scholarship fund an amount
23 equal to the regular program state cost per pupil for the
24 applicable school budget year for each full school budget
25 year between the pupil's date of graduation from high school
26 or completion of an equivalent level of private instruction
27 and the pupil's eighteenth birthday. If, however, the pupil
28 becomes ineligible for the program prior to graduation or
29 completion of private instruction or fails to graduate or
30 complete private instruction by the pupil's twentieth birthday,
31 the department of management shall close the pupil's account
32 and transfer any such remaining amount to the general fund of
33 the state.

34 The bill provides that a person who makes a false claim
35 for the purpose of obtaining an education scholarship or who

1 knowingly receives the scholarship or makes a payment from an
2 account within the fund without being legally entitled to do so
3 is guilty of a fraudulent practice and is subject to a criminal
4 penalty. The bill allows the department of management to
5 initiate legal proceedings to recover scholarships and amounts
6 improperly awarded or paid from accounts.

7 The bill provides that an education scholarship received
8 by a taxpayer or amounts paid to the pupil are not taxable
9 income for purposes of state individual income taxation. This
10 provision of the bill applies to tax years beginning on or
11 after January 1, 2022.

12 The section of the bill enacting the education savings
13 account program applies to school budget years and fiscal years
14 beginning on or after July 1, 2022.